

Remarks

Claims 8-9, 11-16 and 21-46 remain pending in the present application. It is respectfully submitted that the pending claims define allowable subject matter. The above claim amendments simply correct typos, but do not raise new issues.

Claim 46 has been rejected under 35 USC § 112, first paragraph, as failing to comply with the written description requirement. It is maintained that the original disclosure does not teach luggage having at least one arm and having a locking mechanism, but instead the disclosure allegedly “only teaches a container having only one arm.” Applicants respectfully disagree. A simple review of the drawings clearly illustrate that Figure 1 illustrates an embodiment having an arm portion 24, while Figure 8 illustrates an embodiment having an arm portion 102 with two members 110. Therefore, it is respectfully submitted that the original disclosure does comply with the first paragraph requirement.

Claims 8-9, 12-16, 23-27, 29, 31-33, 36-40, 42-44 and 46 have been rejected under 35 USC § 102(e) as being anticipated by Lu (USP 6,530,459). Claims 21, 22, 32, 34, 35, 45 and 46 have been rejected under 35 USC § 103 as being unpatentable over Lu in view of Lin (USP 6,179,101). Claims 28 and 41 have been rejected under 35 USC § 103 as being unpatentable over Lu in view of Kuo (USP 6,339,863). Claims 30, 43 and 45 have been rejected under 35 USC § 103(a) as being unpatentable over Lu in view of Williams et al (USP 4,538,709).

Initially, it is noted that in each of the above obviousness rejections the Lu patent is referred to as the ‘101 patent. However, the undersigned is not aware of a Lu patent ending in the numerals 101. Instead, the secondary reference to Lin ends in the numerals 101. As understood, the above three obviousness rejections are intended to be based on the Lu patent (USP 6,530,459). The subsequent remarks are based on this understanding.

In paragraph #5 of the Outstanding Office Action, claims 8, 9, 11-13, 15, 16, 23-27, 31, 33, 36-40 and 44 have been rejected under 35 USC § 102(e) as being anticipated by Lu (USP

6,530,459). Comparing the rejection of paragraph #5 to the earlier anticipatory rejection in paragraph #1 of the Office Action, it is seen that the same Lu patent is referenced (namely, the '459 Lu patent). However, the anticipatory rejection in paragraph #1 does not recite the same claims as the anticipatory rejection in paragraph #5. As it is understood, the anticipatory rejection in paragraph #5 was intended to be based on a different Lu patent, namely USP 6,508,344. Paragraphs #6 and #7 of the Office Action recite obviousness rejections based on a Lu patent. However, it is not clear which Lu patent is being referenced. As understood, the rejections in paragraph #6 and #7 are believed to be based on the Lu '344 patent. Applicants respectfully traverse each of the above rejections based on the Lu '344 and Lu 459 patents.

The Lu '344 and Lu '459 patents are both based on applications filed on the same day, namely December 28, 2001. Both the Lu '344 patent and Lu '459 patent constitute prior art under § 102(e) as both Lu patents issued after the filing date of the present application. A Declaration under 37 CFR § 1.132 has been filed concurrently herewith establishing that the Claimed Invention in the Subject Application was conceived (if not reduced to practice) prior to the filing date of the Lu '344 and Lu '459 patents. Therefore, it is believed that the concurrently filed 132 Declaration obviates and overcomes all the above rejections based solely or in part on the Lu patents.

Claims 8, 14-15, 23-27, 29, 33 and 36-40 have been rejected under § 102(e) as being anticipated by Kim (USP 6,182,983). Applicants respectfully traverse the anticipatory rejection based on Kim.

Kim fails to teach or suggest the claimed towing handle, arm, pivot mechanism and locking mechanism combination. Claim 8 clearly defines the arm to be moveable between extended and retracted positions such that the distal end is closer to the piece of baggage when the arm is in the retracted position than when the arm is in the extended position. In the Outstanding Office Action, element 520 of Kim is cited with respect to an arm. However, element 520 in Kim represents a guide pipe that is not extendable nor retractable. The guide pipe

520 has one end secured in a fastening block 518 and 519 which secures the guide pipe 520 to a angle adjusting assembly 510. The guide pipe 520 pivots at the angle adjusting assembly 510. The guide pipe 520 is incapable of being moveable between extended and retracted positions such that the distal end is closer to the piece of baggage when the arm is in the retracted position than when the arm is in the extended position. The guide pipe 520 is a unitary single pipe structure that is incapable of extending or retracting within the blocks 518 and 519.

Further, Kim does not teach or suggest the claimed pivot mechanism which pivotally connects a towing handle to the distal end of the arm. Instead, Kim describes a handle 532 that is securely mounted at a set screw (see the cross-section in Figure 16) to a bar 530. Significantly, in the Outstanding Office Action, element 520 of Kim was allegedly cited with respect to the claimed arm. The handle 532 is not connected to the distal end of the arm 520. In the Outstanding Office Action, element 540 of Kim is cited with respect to the “pivot mechanism.” The element 540 in Kim does not pivotally connect any two structures to one another. The element 540 represents a length adjusting instrument for fixing the length adjusting bar 530 to the guide pipe 520. The length adjustment instrument 540 does not “pivotally” connect “the towing handle to said distal end of said arm.”

Further, Kim does not teach or suggest the claimed locking mechanism. The claimed locking mechanism is connected to the pivot mechanism and to the arm. The claimed locking mechanism is “selectively moveable between a locked position and an unlocked position.” The length adjusting instrument 540 does not prevent pivot of the towing handle relative to the distal end when in a locked position, nor permit pivoting of the towing handle relative to the distal end of the arm when in the unlocked position. When the length adjustment member is loosened, the bar 530 slides within pipe 520 to shorten or lengthen the combination of the pipe 520 and bar 530. The length adjusting instrument 540 does not perform the claimed locking and unlocking operations with respect to pivoting between a towing handle and a distal end of an arm.

With respect to claim 23, the Outstanding Office Action maintains that the claimed release mechanism is comprised in the manual rotation of the length adjusting element 540 in Kim. The undersigned strenuously disagrees. Claim 23 positively recites a structural element, namely a release mechanism. Claim 23 further locates the structural release mechanism, namely as being connected to the locked mechanism. Claim 23 further defines the structural release mechanism as being manually operated by an user to unlock the locking mechanism. It is incorrect and inconsistent to attempt to refer to element 540 within Kim as the “pivot mechanism” in connection with one portion of the rejection and, as the “locking mechanism”, and as the “release mechanism” in connection with second and third portions of the rejection. Such an interpretation is simply ignoring the clearer limitations of the claims. Kim teaches no release mechanism.

Turning to independent claim 33, Kim fails to teach or suggest the claimed telescoping arm, towing handle and locking mechanism combination. Claim 33 clearly recites a telescoping arm having a distal end and a proximal end, where the arm is moveable between extended and retracted positions relative to the baggage portion. Kim lacks a telescoping arm. Under the interpretation maintained in the Office Action with respect to claim 8, the arm was recited as pipe 520, while the bar 530 of Kim was referred to as part of the handle. Under the interpretation of Kim provided with respect to claim 8, Kim lacks a telescoping arm as the bar 530 of Kim is interpreted as being part of the handle, namely the “stem portion” (see the examiner’s comments regarding claim 29).

Further, assuming *arguendo* that the pipe 520 and bar 530 of Kim are interpreted to be a telescoping arm, then Kim lacks a towing handle that is “pivotally connected to said distal end of said arm, said towing handle pivoting about and relative to said distal end of said arm.” The bar 530 of Kim is securely mounted to the handle 532 at a setscrew. There is no pivotal connection between the handle 532 and the bar 530.

Also, Kim lacks the claimed locking mechanism. Claim 33 clearly recites the locking the mechanism to be connected “to said arm and said towing handle.” The length adjusting member 540 of Kim is not connected to the handle 532, but is instead is provided at an intermediate point, namely the point of intersection between the bar 530 and pipe 520. Thus, Kim fails to teach or suggest claim 33.

With respect to claim 36, Kim lacks any form of release mechanism as explained above.

With respect to claim 37, Kim’s handle 532 does not rotate relative to the distal end of the telescoping arm because the handle 532 is secured at a setscrew to the end of the bar 530. For similar reasons, Kim lacks the structure recited in claim 38.

Claims 8, 9, 11-12, 15-16, 23-27, 33 and 36-40 have been rejected under 35 USC § 102(e) as being anticipated by Chen (USP 6,332,242). In connection with Chen, attention is directed to claim 25, which depends from claim 8, which defines the arm as extending along a first axis about which the towing handle pivots. In Chen, the towing handle does not pivot about an axis along which the arm extends. Instead, Chen’s handle pivots about an axis that extends perpendicular to the length of the arms. In short, Chen’s axis of rotation is oriented perpendicular to the axis of rotation recited in claim 25.

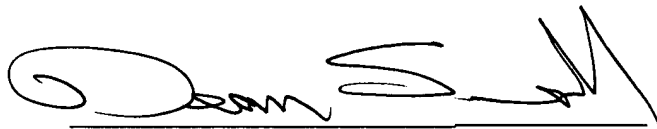
Claim 38, which depends from claim 33, also defines the arm as extending along a first axis about which the towing handle pivots. Again, Chen teaches an axis about which the handle pivots that is oriented perpendicular to the axis claimed in claim 38. Thus, Chen neither teaches nor suggests the structure of claims 8 and 33 in combination with the structure of claims 25 and 38, respectively.

Claims 28 and 41 have been rejected under 35 USC § 103 as being unpatentable over Chen in view of Kuo (USP 6,339,863). Applicants respectfully traverse this rejection as the examiner has failed to make a prima facie case of obviousness. In the Outstanding Office Action, it is suggested that it would have been obvious to provide an elliptical cross section in

the arm of Chen as taught by Kuo to provide the desired for the arm and to enhance strength. There is no teaching nor suggestion within Chen, nor Kuo nor elsewhere in the prior art, that an elliptical cross section is desirable in Chen's system or that it would enhance the strength of Chen's system. There is simply no motivation to make the alleged modification.

In view of the foregoing comments respectfully submitted the pending claims define allowable subject matter. Should anything remain in order to place the present application in condition for allowance, the examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Dean Small', is written over a horizontal line.

Dean Small, Reg. No.: 34,730
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070